

REMARKS

This Amendment is submitted response to the official action that issued on September 17, 2008. Claims 28-34 were pending in the application. In the official action, claims 28-34 were rejected. In this Amendment, claims 28 and 31-34 have been amended. Claims 28-34 thus remain for consideration.

Applicant submits that claims 28-34 are in condition for allowance and requests withdrawal of the rejections in light of the following remarks.

Claim Objections

The Examiner objected to claims 32 and 33.

Applicant has amended claims 32 and 33 and submits that claims 32 and 33 are now in condition for allowance. Accordingly, Applicant requests withdrawal of the claim objections.

§103 Rejections

Claims 28-34 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kidder (U.S. Patent 6,363,413) in view of Parkkinen et al. (U.S. Patent 7,072,366).

Applicant submits that the independent claims (claims 28, 31, and 34) are patentable over Kidder and Parkkinen (collectively "the cited references").

Applicant's invention as recited in the independent claims is directed toward a content server, a terminal, and a method of distributing content. Each of the claims recites the use of upgrading-data that "is generated on a user-to-user basis by reviewing a usage-history of [a] user to determine [a] first format and then calculating the difference between [] data in the first format and [] data in [a] target format [which is of a higher quality than the first format]." Supporting disclosure for the quoted recitation can be found in the specification at, for example, page 20, line 21 - page 25, line 22.

Neither of the cited references discloses the quoted recitation. Accordingly, Applicant believes that claims 28, 31, and 34 are patentable over the cited references - taken either individually or in combination - on at least this basis.

Further, since dependent claims inherit the limitations of their respective base claims, Applicant believes that dependent claims 29, 30, 32, and 33 are patentable over the cited references for at least the same reasons as discussed in connection with the independent claims.

Applicant respectfully submits that all of the claims now pending in the application are in condition for allowance, which action is earnestly solicited. If any issues remain, or if the Examiner has any further suggestions, he/she is invited to telephone the undersigned at (908) 654-5000.

The Examiner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account No. 12-1095.

The Examiner's consideration of this matter is gratefully acknowledged.

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Respectfully submitted,

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